

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

RICHARD BEHAR

Plaintiff,

v.

U.S. DEPARTMENT OF HOMELAND  
SECURITY,

Defendant.

Nos. 17 Civ. 8153 (LAK)  
18 Civ. 7516 (LAK)

**PLAINTIFF'S STATEMENT OF MATERIAL FACTS  
AS TO WHICH THERE IS NO GENUINE ISSUE**

Pursuant to Federal Rule of Civil Procedure 56 and Local Rule of Civil Procedure 3212, Plaintiff Richard Behar hereby submits his statement of material facts as to which there is no genuine issue (“SMF”).

**A. The Secret Service Offers Protection to Major Candidates to Ensure the Integrity of the Democratic Process and the Continuity of Government**

1. Oklahoma Senator Mike Monroney said during Senate debate over legislation authorizing the Secret Service to provide major Presidential and Vice Presidential candidates with protection that such protection is intended to safeguard “the very keystone of our governmental structure, and that is the proper selection, by democratic means—and that means exposure to all the citizens of the United States, if possible—of the person of the candidate.”

Langford Decl. ¶ 14 & Ex. J.

2. The Secret Service’s official website states that the agency’s “[p]rotection of a candidate/nominee is designed to maintain the integrity of the democratic process and continuity of government.” Langford Decl. ¶ 13 & Ex. I.

**B. The Cost of Providing Secret Service Protection to Donald Trump and His Family**

3. The Secret Service reportedly paid Trump-owned businesses about \$1.6 million in taxpayer money to cover the cost of protection before the election. Langford Decl. ¶ 15 & Ex. K.

4. The Secret Service reportedly overpaid various 2016 presidential campaigns, including the Trump campaign, by \$4 million in taxpayer money for plane travel. Langford Decl. ¶ 17 & Ex. M.

5. Shortly after Mr. Trump’s election, it was reported that the NYPD and the Secret Service would increase their security measures at Trump Tower in New York City. Langford Decl. ¶ 18 & Ex. N.

6. The possibility of the Secret Service renting space in Trump Tower at a high cost to taxpayers was subject to widespread media coverage. Langford Decl. ¶¶ 19-21 & Exs. O-Q.

7. Less than a week after the 2016 election, the presence of the Secret Service was reportedly advertised as a “new amenity” at Trump Tower. Langford Decl. ¶ 22 & Ex. R.

8. The Secret Service stated that it “cannot discuss [sic] specifically nor in general terms the means, methods, resources, costs or numbers [it] utilize[s] to carry out [its] protective responsibilities.” Langford Decl. ¶ 23 & Ex. S.

9. The Secret Service recently requested a program increase of \$25.7 million in taxpayer money to “cover the cost” of “continued operations” related to “secur[ing] Trump Tower, and the members of the First Family’s private residences.” Langford Decl. ¶ 24 & Ex. T.

10. It was reported that the cost of protecting Trump and his family during the transition period in New York City was more than \$1 million per day. Langford Decl. ¶ 25 & Ex. U.

11. In 2017 it was reported in an interview with Secret Service Director Randolph Alles that the Secret Service could no longer afford to pay agents to provide statutorily mandated coverage—“in large part due to the sheer size of President Trump’s family and efforts necessary to secure their multiple residences up and down the East Coast.” Langford Decl. ¶ 26 & Ex. V.

12. The Secret Service spent more than \$30 million in the first 100 days of the Trump Presidency, including heightened costs for protecting Trump Tower, covering Trump’s leisure and business travel to various properties he owns, business trips by Eric Trump and Donald Trump, Jr., and vacations of members of the first family. Langford Decl. ¶ 27 & Ex. W.

13. The Secret Service anticipated it would “run out of money to protect Trump and his family” by September 30, 2017. Langford Decl. ¶ 28 & Ex. X.

14. Congress allocated the Secret Service an additional \$120 million to cover the costs of providing security for the Trump Family and Trump Tower. Langford Decl. ¶ 29 & Ex. Y.

15. A recent FOIA request showed that Donald Trump Jr. and Eric Trump incurred nearly \$250,000 in Secret Service costs in a single month. Langford Decl. ¶ 30 & Ex. Z.

**C. Russian Contacts with the Trump Campaign, Transition Team, and Future Administration While Mr. Trump was Under Secret Service Protection**

16. *The New York Times* reported in June 2016 that Russian hackers penetrated the DNC’s computer systems. Langford Decl. ¶ 31 & Ex. AA.

17. On August 14, 2017, the *Washington Post* reported that the Trump campaign had considered setting up meetings with Russian leadership, including President Vladimir Putin. Langford Decl. ¶ 32 & Ex. BB.

18. On March 31, 2016, George Papadopoulos informed Mr. Trump and top campaign officials that he had been approached about setting up a meeting with Russian President Vladimir Putin. Senator Jeff Sessions was reportedly “quite enthusiastic” about setting up the meeting. Langford Decl. ¶ 34 & Ex. DD.

19. Papadopoulos testified that he was introduced to another Russian with connections to the Russian Ministry of Foreign Affairs in April 2018 and was advised that there was “an open invitation by Putin for Mr. Trump to meet when he is ready.” Langford Decl. ¶ 33 & Ex. CC.

20. Papadopoulos was subsequently told that the Russians had “dirt” on Former Secretary of State Hillary Clinton and a high-ranking Trump campaign official encouraged Papadopoulos to make the trip to obtain the information, though it never took place. *Id.*

21. On July 8, 2017, the *New York Times* reported on a meeting between a Russian lawyer with Kremlin ties and Mr. Trump’s son, son-in-law, and campaign chairman. Langford Decl. ¶ 35 & Ex. EE.

22. On June 9, 2016, Donald Trump, Jr., Jared Kushner, and Paul Manafort all met with Natalia Veselnitskaya at Trump Tower after Trump, Jr. was promised damaging information about Hillary Clinton in advance of the meeting. Langford Decl. ¶ 36 & Ex. FF.

23. It was reported that Mr. Trump “wasn’t aware of the meeting.” Langford Decl. ¶ 37 & Ex. GG.

24. Mr. Trump's personal attorney later stated that he was present "when Trump Jr. informed his father of the planned meeting, and that Trump signed off on going ahead with it." *Id.*

25. The President's lawyer publicly questioned the sufficiency of Secret Service's vetting of Natalia Veselnitskaya, the Russian lawyer who attended the meeting. Langford Decl. ¶ 38 & Ex. HH.

26. In reporting about this meeting, news organizations reported that the "[Secret Service's] role in vetting people who meet with a U.S. president or candidates is limited to ensuring physical safety." Langford Decl. ¶ 39 & Ex. II.

27. The *Washington Post* reported that Jeff Sessions, then a Senator and advisor to the Trump campaign, met with then-Russian Ambassador to the United States, Sergey Kislyak, twice in July and September 2016. Langford Decl. ¶ 41 & Ex. KK.

28. It was later reported that he discussed campaign-related matters with Kislyak. Langford Decl. ¶ 42 & Ex. LL.

29. These meeting led now-Attorney General Sessions to recuse himself from involvement in the Department of Justice's Russia investigation. *Id.*

30. After the election, Jared Kushner met with Kislyak about establishing a secret communications channel between the Trump transition team and Moscow to discuss strategy. Langford Decl. ¶ 43 & Ex. MM.

31. Kushner also met with the chief executive of a Russian state-owned bank during the transition. Langford Decl. ¶ 44 & Ex. NN.

32. On January 12, 2017, the *Washington Post* reported that Mr. Flynn spoke with Mr. Kislyak on December 29, 2016—the day that the United States announced sanctions on Russia in response to attacks on the 2016 presidential election. Langford Decl. ¶ 45 & Ex. OO.

33. On February 9, 2017, the *Washington Post* reported that Mr. Flynn had “privately discussed U.S. sanctions against Russia with [Mr. Kislyak] during the month before President Trump took office, contrary to public assertions by Trump officials.” Langford Decl. ¶ 46 & Ex. PP.

34. During the transition, on December 22, 2016, Mr. Flynn initially spoke with Mr. Kislyak to urge Russia to delay a pending resolution in the U.N Security Council. Langford Decl. ¶ 47 & Ex. QQ.

35. They then discussed sanctions by both the U.S. and Russian governments, during which Flynn suggested the sanctions might be relieved once Trump is sworn into office and asked Kislyak to “refrain from escalating the situation.” *Id.*

36. Putin announced he would not take action, and on December 31, 2016, Kislyak informed Flynn that Russia’s decision not to respond was because of Flynn’s request. *Id.*

37. When this information came to light, questions were raised as to whether Trump, Flynn, or other Trump associates may have violated the Logan Act, a federal law that prohibits private citizens from conducting foreign policy and that also applies to incoming presidents. Langford Decl. ¶¶ 48-49 & Ex. RR-SS.

38. Flynn was forced to resign and ultimately pleaded guilty for lying to the FBI about these conversations with Kislyak. Langford Decl. ¶ 50 & Ex. TT.

39. Mikhail Prokhorov reportedly attended a dinner with Michael Flynn, Mr. Trump’s National Security Adviser, in December 2015. Langford Decl. ¶ 51 & Ex. UU.

40. Alexander Torshin reportedly tried to arrange a meeting between Mr. Putin and Mr. Trump in May 2016. Langford Decl. ¶ 52 & Ex. VV.

41. Russian pop singer and real estate mogul Aras Agalarov reportedly described having an ongoing relationship with the Trump family. Langford Decl. ¶ 53 & Ex. WW.

**D. Government Investigations into the Conduct of Candidate and President-Elect Trump and His Associates While He Was Under Secret Service Protection**

42. Since the November 2016 presidential election, there have been five separate investigation into, among other issues, Russia's interference in the election; collusion between the Trump campaign and Russia; and contacts between individuals working on the Trump campaign and Russian officials. Langford Decl. ¶ 54-57 & Ex. XX-AAA.

43. These investigations consist of four Congressional investigations and the Department of Justice's investigation of the Trump campaign's ties to Russia, led by special counsel Robert Mueller. *Id.*

44. The intelligence community and the Republican-led Senate Intelligence Committee have both concluded that Russia meddled in the 2016 election. Langford Decl. ¶ 58 & Ex. BBB.

45. The Mueller investigation into Russian collusion with the Trump campaign has resulted in indictments or guilty pleas from thirty-two people and three companies, including four former Trump advisors, twenty-six Russian nationals, three Russian companies, and others. Langford Decl. ¶ 59 & Ex. CCC.

46. The Trump campaign's director of national security, J.D. Gordon, reportedly socialized with suspected Russian agent Maria Butina in the final weeks of the 2016 campaign. Langford Decl. ¶ 60 & Ex. DDD.

**E. Meetings Between Business Persons and Lobbyists and Candidate Trump While Under Secret Service Protection**

47. Mr. Trump has a sprawling business empire, including significant financial stakes in “more than 500 businesses.” Langford Decl. ¶ 61 & Ex. EEE.

48. *The New Yorker* has reported on Mr. Trump’s potential conflicts of interest, financial liabilities, and past corrupt practices. Langford Decl. ¶ 62 & Ex. FFF.

49. *USA Today* reported on conflicts of interest relating to the President’s use of his properties, such as Trump National Golf Club and Mar-a-Lago. Langford Decl. ¶ 63 & Ex. GGG.

50. There has been significant speculation about the contents of Mr. Trump’s unreleased tax returns, as recounted in a piece by the New York Times. Langford Decl. ¶ 64 & Ex. HHH.

51. In April 2016, Mr. Trump privately met with representatives from approximately twelve special interest groups, including lobbyists and the chief executive of a major airline trade organization, in Washington, D.C. Langford Decl. ¶ 65 & Ex. III

52. The meeting was kept secret and attendees received invitations by phone. *Id.*

53. In June 2016, Mr. Trump attended an invitation-only fundraiser organized by a top coal industry executive, Robert Murray. Langford Decl. ¶ 66 & Ex. JJJ.

54. Special interest groups donated nearly \$107 million to President Trump’s inauguration. Langford Decl. ¶ 67 & Ex. KKK.

55. The media reported on industry’s potential influence on the Trump campaign and transition team. Langford Decl. ¶ 68-70 & Ex. LLL-NNN.

**F. Mr. Behar’s FOIA Requests**

56. On September 22, 2017, Mr. Behar submitted a Freedom of Information Act request seeking records identifying every individual who was “screened and/or noted by the

Secret Service” because they (a) sought to visit Donald Trump, Eric Trump, Donald Trump, Jr., Ivanka Trump, Jared Kushner, Paul Manafort, Michael Flynn, Corey Lewandowski, Michael Cohen, Stephen Bannon, and Kellyanne Conway and/or (b) sought access to any secured area where any of the listed individuals were present, between November 1, 2015, and January 21, 2017. Langford Decl. ¶ 4 & Ex. A at 2-3.

57. Mr. Behar requested expedited processing of the request. *Id.*

58. By October 23, 2017, Mr. Behar did not receive the requested documents or confirmation of his entitlement to expedited processing. Case No. 17 Civ. 8153 (“*Behar I*”), ECF No. 1 (Complaint) ¶ 28.

59. Pursuant to this Court’s February 21, 2018 order, between April and September 2018, the Secret Service identified a total of nine email records that the agency deemed to be responsive to the request. Campbell Decl. ¶ 13.

60. Initially, the Secret Service withheld seven of the nine emails in full, producing two emails with attachments in redacted form on August 1, 2018. Two additional emails were produced by the Secret Service on October 3, 2018, with redactions. Langford Decl. ¶ 5-6 & Exs. B-C.

61. On May 2, 2018, counsel for the Secret Service informed counsel for Mr. Behar that the agency did not consider those schedules responsive to Mr. Behar’s initial request. Langford Decl. ¶ 7 & Ex. D.

62. Mr. Behar objected to the agency’s determination of responsiveness. Langford Decl. ¶ 8 & Ex. E at 4.

63. On May 14, 2018, Mr. Behar filed a second FOIA request, requesting the schedules located by the Secret Service. This request reiterated the strong public interest underlying Mr. Behar's request for the records. *Id.*

64. On June 1, 2018, the Secret Service responded to Mr. Behar's second FOIA request, informing Mr. Behar that the agency was withholding the responsive documents because (1) it did not believe they were agency records, and (2) that even if the schedules were agency records, it believed the records to be exempt under Exemptions 6 and 7. Langford Decl. ¶ 9 & Ex. F.

65. Mr. Behar's administrative appeal regarding the denial of his second FOIA request. Langford Decl. ¶ 10 & Ex. G.

66. The Secret Service denied Mr. Behar's administrative appeal on August 8, 2018. Langford Decl. ¶ 11 & Ex. H.

67. On October 3, 2018, the Secret Service produced redacted versions of two responsive emails. Langford Decl. ¶ 6 & Ex. C.

#### **G. Further Reported Associations Among Mr. Trump or His Associates and Individuals Identified in Mr. Behar's FOIA Requests**

68. British politician Nigel Farage met with Mr. Trump repeatedly in Washington. Langford Decl. ¶ 71 & Ex. OOO.

69. Andrii Artymenko met with Mr. Trump's personal lawyer, Michael Cohen, in January 2017. Langford Decl. ¶ 72 & Ex. PPP.

70. The meeting "dr[ew] scrutiny because of the intense interest in any dealings by Trump associates having to do with Russia or Russia-related issues." *Id.*

71. Russian-born real estate developer Felix Sater urged Mr. Trump to come to Moscow while he was running for President to help promote a plan for a Trump Tower in Moscow. Langford Decl. ¶ 73 & Ex. QQQ.

72. Tom Barrack tried to arrange a secret meeting between Paul Manafort and the crown prince of Saudi Arabia. He was later named chairman of Mr. Trump's inaugural committee. Langford Decl. ¶ 74 & Ex. RRR.

73. Yuri Vanetik was listed as one of 14 members of a leadership committee for the largest pro-Trump PAC in the 2016 election, which raised more than \$30 million. Langford Decl. ¶ 75 & Ex. XXX.

74. During the Republican convention in 2016, Vanetik's name appeared on an invitation to a private reception with Rudy Giuliani. Langford Decl. *Id.*

75. Tevfik Arif controlled Bayrock, a property development in Trump Tower, in the 2000s. Langford Decl. ¶ 76 & Ex. TTT.

76. Len Blavatnik donated \$1 million to Trump's inauguration fund and attended a Russian gala event in 2014 alongside Ivanka Trump and Jared Kushner. Langford Decl. ¶ 77 & Ex. UUU.

77. Giorgi Rtskhiladze was Mr. Trump's business partner and reportedly said that Mr. Trump expressed concern that his business projects could violate the Emoluments Clause. Langford Decl. ¶ 78 & Ex. VVV.

78. Dmitry Rybolovlev paid Trump \$95 million for a Florida mansion in 2008, more than double what Trump paid for the house four years earlier. Rybolovlev had never visited the property before he bought it. Langford Decl. ¶ 79 & Ex. WWW.

79. Alexander Machkevich was an investor in Mr. Trump’s SoHo Hotel. Langford Decl. ¶ 80 & Ex. XXX.

80. Devin Nunes is the chairman of the House Intelligence Committee and met with Mr. Trump in 2017 to discuss intelligence reports regarding his committee’s independent investigation of Russia’s meddling in the 2016 presidential election. Langford Decl. ¶ 81 & Ex. YYY.

81. Dana Rohrbacher, a “Russia-friendly” Republican congressman, met with Paul Manafort, Mr. Trump’s former campaign chief, in 2013. Langford Decl. ¶ 82 & Ex. ZZZ.

82. In May 2016, a conservative operative told Rick Dearborn, a Trump campaign advisor at the time, that he could arrange a back-channel meeting between Mr. Trump and Vladimir Putin. Langford Decl. ¶ 83 & Ex. AAAA.

83. Boris Epshteyn was a senior adviser to the Trump campaign and worked for the White House communications office. Langford Decl. ¶ 84 & Ex. BBBB.

84. Rick Gates was a top Trump campaign official and requested proposals in 2016 from an Israeli company to create fake online identities, use social media manipulation, and gather intelligence to help defeat political opponents. Langford Decl. ¶ 85 & Ex. CCCC.

85. Roger Stone is a longtime political adviser to Mr. Trump and met with a Russian man who claimed to have damaging information about Hillary Clinton in May 2016. Langford Decl. ¶ 86 & Ex. DDDD.

86. Elliot Broidy was a top fundraiser for Mr. Trump’s campaign and advertised his Trump connections to politicians and governments around the world. Langford Decl. ¶ 87 & Ex. EEEE.

87. Erik Prince arranged a meeting at Trump Tower in August 2016 with Donald Trump Jr., an Israeli specialist in social media manipulation, and an emissary for two Arab princes. Langford Decl. ¶ 88 & Ex. FFFF.

88. George G. Lombardi was granted permission by Mr. Trump to organize support for him on social media after he declared his candidacy. Langford Decl. ¶ 89 & Ex. GGGG.

89. Robert Armao was introduced to Michael Cohen by Felix Sater less than a month after Mr. Trump's inauguration. Langford Decl. ¶ 90 & Ex. HHHH.

90. Irakly Kaveladze attended the June 9, 2016 meeting at Trump Tower. Langford Decl. ¶ 91 & Ex. IIII.

Dated: October 31, 2018

Respectfully submitted,

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